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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,849	12/29/2003	Steven Ausnit	ITW-13965	6432
44702	7590	11/18/2004		
OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			EXAMINER TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/747,849

Applicant(s)

AUSNIT, STEVEN

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 21-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12292003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Election/Restrictions***

Applicant's election with traverse of Species I (claims 1-20) in the reply filed on 10/01/2004 is acknowledged. The traversal is on the ground(s) that claims are never species, species are always the specifically different embodiments. This is not found persuasive because the examiner as disclosed on the restriction of paper # 09132004 divided the claims as to each group of the claims refer to different embodiment. Further, applicant refers to different aspects of the application on (specification page 3, lines 12, 19, 26, and page 4, line 19; etc.).

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 10-15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanemitsu et al. (5,400,568) in view of Buchman (6,293,896).

Kanemitsu discloses a form-fill-seal machine and method for forming reclosable packages comprising means for placing product on a first web of packaging film (Figs. 4-6; via 45); means for forming a receptacle having an interior volume and a mouth (Figs. 2, 11, and 17) with the product in the interior volume and a string zipper installed in said mouth (Fig. 4; via zipper 24 and 25), said first web (Fig. 4; via 10) of packaging film forming at least one wall of said receptacle (Figs. 9-11), and means for sealing said receptacle so that ambient air cannot

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enter said interior volume (Fig. 4; via 38). Kanemitsu does not disclose that a slider insertion device for inserting sliders on said string zipper. However, Buchman discloses similar method and apparatus for forming reclosable packages comprising a slider insertion device for inserting sliders on said string zipper (Fig. 6; via 232 and Fig. 1; via 30) to interlock the closure profiles.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Kanemitsu's method and apparatus of forming reclosable packages by having a slider insertion device for inserting sliders on said string zipper, as suggested by Buchman, in order to interlock and disengage the first closure profile with the second closure profile when the slider device is moved to make opening and closing the packages easier (column 2, lines 47-51).

Regarding claims 2 and 12: Kanemitsu discloses wherein the receptacle forming means comprise means for joining a back of a section of a first flangeless zipper strip (Fig. 4; via 24) of said string zipper to said first web of packaging film (10) along a first longitudinal zone proximal to a first edge thereof, and means for joining a back of a section of a second flangeless zipper strip (Fig. 4; via 25) of said string zipper to said first web (10) of packaging film along a second longitudinal zone proximal to a second edge thereof (Fig. 4).

Regarding claims 3 and 13: Kanemitsu discloses wherein the receptacle forming means further comprise means for folding said first web of packaging film about halfway between said first and second edges (Fig. 4; via along tube 29A).

Regarding claims 4 and 14: Kanemitsu discloses wherein the receptacle forming means further comprise means for aligning said first edge with a predetermined portion of said first

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flangeless zipper strip (Fig. 4; via tube 29A and pressing means 34) before said first web is joined to said first flangeless zipper strip.

Regarding claims 5 and 15: Kanemitsu discloses wherein the receptacle forming means further comprise means for trimming said first edge after said first web is joined to said first flangeless zipper strip (Fig. 4; via 38).

Regarding claims 10 and 20: Kanemitsu discloses further comprising means for forming pockets in said first web at spaced intervals therealong, said products being placed in said pockets (Figs. 2 and 9-11).

Claims 1, 6-9, 11, and 16-19 as of different embodiment are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausnit (6,517,660) in view of Buchman (6,293,896).

Ausnit discloses a form-fill-seal machine and method for forming reclosable packages comprising means for placing product on a first web of packaging film (Fig. 8); means for forming a receptacle having an interior volume and a mouth (Figs. 1, 2, and 6) with the product in the interior volume and a string zipper installed in said mouth (Fig. 1, 2, and 6; via zipper 40 and 42), said first web (Fig. 1; via 32) of packaging film forming at least one wall of said receptacle (Figs. 8), and means for sealing said receptacle so that ambient air cannot enter said interior volume (Fig. 1; via 64 and 82). Ausnit does not disclose that a slider insertion device for inserting sliders on said string zipper. However, Buchman discloses similar method and apparatus for forming reclosable packages comprising a slider insertion device for inserting sliders on said string zipper (Fig. 6; via 232 and Fig. 1; via 30) to interlock the closure profiles.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Ausnit's method and apparatus of forming reclosable

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packages by having a slider insertion device for inserting sliders on said string zipper, as suggested by Buchman, in order to interlock and disengage the first closure profile with the second closure profile when the slider device is moved to make opening and closing the packages easier (column 2, lines 47-51).

Regarding claims 6 and 16: Ausnit wherein the receptacle forming means comprise means for joining one side of said string zipper to said first web (32) of packaging film along a longitudinal zone proximal to an edge of said first web (Fig. 1), and means for joining another side of said string zipper to a second web (34) of packaging film along a longitudinal zone proximal to an edge of said second web (Fig. 1).

Regarding claims 7 and 17: Ausnit discloses wherein the receptacle forming means further comprise means for placing said second web over said first web and means for joining said first and second webs along three sides of said receptacle (Fig. 1; via 59).

Regarding claims 8 and 18: Ausnit discloses wherein said receptacle forming means further comprise means for aligning an edge of said first web with a predetermined portion of said first flangeless zipper strip before said first web is joined to said first flangeless zipper strip (Fig. 1; via separator 62 and anvil 64).

Regarding claims 9 and 19: Ausnit discloses wherein said receptacle forming means further comprise means for trimming an edge of said first web after said first web is joined to said first flangeless zipper strip (Fig. 1; via 86).

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***Conclusion***

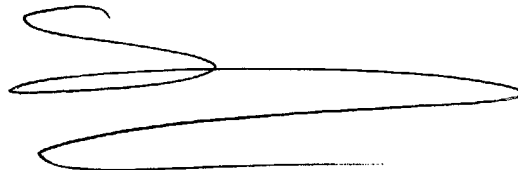
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809.

The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
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A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

St.